



CITY OF FREDERICKSBURG, VIRGINIA

CITY COUNCIL

MINUTES

Council Chambers, 715 Princess Anne Street
Fredericksburg, Virginia 22401

HON. MARY KATHERINE GREENLAW, MAYOR
HON. BRADFORD C. ELLIS, VICE -MAYOR, WARD ONE
HON. KERRY P. DEVINE, AT-LARGE
HON. MATTHEW J. KELLY, AT-LARGE
HON. GEORGE C. SOLLEY, WARD TWO
HON. FREDERIC N. HOWE, III, WARD THREE
HON. BEATRICE R. PAOLUCCI, WARD FOUR

November 26, 2013

The Council of the City of Fredericksburg, Virginia, held a public hearing on Tuesday, November 26, 2013, beginning at 7:36 p.m. in the Council Chambers of City Hall.

City Council Present. Mayor Mary Katherine Greenlaw presiding. Vice-Mayor Bradford C. Ellis. Councilors Kerry P. Devine, Frederic N. Howe, III, Matthew J. Kelly, Beatrice R. Paolucci and George C. Solley.

City Council Absent. Councilor Kerry P. Devine, out of town.

Also Present. City Manager Beverly Cameron, City Attorney Kathleen Dooley, Planning Director Chuck Johnston, Deputy Director of Planning Erik Nelson, Public Works Director Doug Fawcett and Clerk of Council Tonya B. Lacey.

Notice of Public Hearings (D13-459 thru D13-467). The Clerk read the notice of the public hearings as they appeared in the local newspaper, the purpose being to solicit citizen input.

Rezoning Approximately 22 Acres of Land Known as “Telegraph Hill,” Located Near the Intersection of the Blue Gray Parkway and Lafayette Boulevard, Including Property Across from the Lee Drive Entrance to the National Park from I-1 Light Intensity Industrial, I-2

General Industrial, R-2 Residential and R-4 Residential to PD-MU

Planned Development - Mixed Use (D13-459). – 3 speakers. After a brief overview staff recommended deferring approval of the rezoning until January 2014 to allow the City's proffer authority specified in the Unified Development Ordinance (UDO) to be updated.

Gary Knuckols, Counsel representing applicants, 725 Jackson Street, in terms of the rezoning he had no comments to add, but he said they had issue with the delay. He said they do not know what the entrance will look like because if the rezoning is not approved, the entrance would be the conventional entrance that was submitted in August 2012 and if the rezoning is approved it will be the roundabout entrance. Mr. Knuckols reviewed the timelines on this project which dated back to February 2011 and by delaying until January this would result in a three year approval process for a by-right subdivision. Mr. Knuckols said he understood the proposed UDO text amendment, but did not feel it was necessary for this project. He stated that a proffer challenge for this project would not make sense and he explained that the roundabout was integral to the overall design of the project. He added that the delay was impacting the economic viability of the project because the entrance is unknown, it prohibits the owner from pricing the lots for sale and the lot sales are what are paying for the infrastructure. He asked Council to consider all the factors and proceed without delay.

Wanda Hoffman, 1515 Lafayette Boulevard, complained of the lack of visibility when coming from Twin Lakes she said the land is flat until you get to Adair Street. She suggested removing or shaving back the embankment. She also complained of the

speeding along that portion of Lafayette and she suggested there be signs posted to warn drivers of the round-about.

Hamilton Palmer, 401 Charles Street, spoke on behalf of his clients at 1319-1321 Lafayette Boulevard. He said they object to loosing access which may occur due to the improvements of Lafayette Boulevard, but they did not object to the rezoning of the property.

Councilor Kelly noted that the process had been long, but clarified that the City had an agreement with the developer that all approvals would be taken care of and that City Council would vote on the item as soon as the PC makes the UDO recommendation. He also noted that council was well within their timeline for approval.

Councilor Howe stated that he felt the traffic study that was commissioned by the City was flawed in his opinion. He noted that although this was a by-right subdivision Council has to do what's best to protect the taxpayers.

Mayor Greenlaw noted that the item will go to the Planning Commission in December and City Council could first and second read it at its meeting in January.

Special Use Permit to Cowan Crossing, LLC for the Operation of a Fast Food Establishment on Property Located at 1501-1573 Jefferson Davis Highway (D13-460 thru D13-467). – 12 speakers. Staff gave a brief presentation of the application.

Chris Hornung, Vice President of Planning & Engineering for the Silver Companies gave a brief history of the property stating that they acquired the property in pieces with the intent to develop it commercially. The property was zoned Commercial-Transitional (CT) and many of the uses being proposed were consistent with those all

along the Route 1 corridor. He noted that there were many allowable uses and there were a few conditional uses such as a grocer, pharmacy, funeral home, convenience store and fast food restaurants. He said they knew there would be issues with a fast food restaurant so before submitting they met with the neighbors immediately adjacent to the property. There were five who were immediately adjacent and they worked on a plan to place berms, fencing to buffering the properties. The Silver Cos. also agreed to employ some restrictions on the property such as no convenience store shall be placed on the property. The main concerns brought up were traffic, visual, sound impacts, smoke and odor emissions that may come from the proposed use. He explained that the property had limited access from off of Jefferson Davis Highway and a right in and right out off of Cowan Boulevard. This ingress/egress is used to minimize traffic impacts. They also proposed to widen the road at the main intersection, make modifications of the signals at the intersection on Route 1 as well as improvements along Cowan Boulevard in the area near the entrance. He addressed the concerns regarding people cutting through Westwood neighborhood to get to this restaurant and he seems to think it would be counter-intuitive to do so. He noted that when Cowan Boulevard opened the traffic cutting through the subdivision slowed through the neighborhood. Mr. Hornung felt the purpose of the special use permit was to address issues that were above and beyond what's allowed by-right and currently a restaurant is allowed by-right. He noted that a restaurant that does not have a drive through is an allowed use and the concerns regarding emissions are impacts that could be on this property with or without a special use permit. He noted that they worked closely with the neighbors on the buffering and the fencing to protect the property values. Mr. Hornung addressed the data that has been distributed

regarding the emission from restaurants and most of the data was from California and because of their smog issues and other concerns there. California requires catalytic converters to reduce emissions to comply with the State of California emissions requirements and that's what they are proposing to use here. He discussed the different types of particulate pollutants and he said the worse pollutants were from fireplaces and he said there were nearly 50 fireplaces in the neighborhood and the pollutants from one fireplace were more than you would get from the restaurant. Mr. Hornung also addressed comments that were made saying the project has impacted streams and cultural resources on the site, but he said they had obtained wetland permits, agreements with the Department of Historic Resources, Corps of Engineers, and the City was a party to the agreement as well as the University of Mary Washington. He said they have received data recovery of archeology on the site and none were deemed to be on the national registry, but the data received from it was important to the future study of slave housing. It is believed that there are slave houses, but all that is left of them are the foundations. He said this is a use that works for the area and they have gone to great lengths to reduce the impacts to the Neighbors.

Vice-Mayor Ellis thanked Mr. Hornung for the work that Silver Cos. had done to mitigate the effects of the property owners directly. He asked if the Burger King on Route 3 used the catalytic converter and Mr. Hornung said they do. He said that has become a requirement for most Burger Kings throughout the country. He said they have agreed to follow the same maintenance requirements that are required in other jurisdictions. He said a log would be kept by the facility so that the City could come by and check to make sure the maintenance was being done.

Vice-Mayor Ellis also asked about the parking spaces and whether they were in violation with the Unified Development Ordinance (UDO). Mr. Hornung stated there is not a violation yet. He said when the application was submitted the UDO had not been adopted so the original layout plans did not include all the provisions of the UDO. He said most are site plan revisions and he had a memo to explain how they plan to revise to meet the UDO requirements. In regards to parking, the UDO increased the number of parking spaces required for fast food restaurants. It was his understanding the UDO was designed to reduce parking within the City but the parking for fast food resulted in a 25 percent increase in the City. He said they plan to work with staff to see if this requirement could be reduced or they may have to reduce the size of the building.

Councilor Solley asked about the size of the sign and Mr. Johnston stated that on Route 1 there is a limit of 30 square feet of signage with a height limit of five feet and on the building 1½ square feet per linear footage.

Councilor Howe asked if the Lone Star and the Popeye's would be more of a concern to the Westwood Subdivision than this proposed property. Mr. Hornung said it would be worth taking a look and it would be worth checking to see what other jurisdictions are doing.

Councilor Howe also agreed that the cut through has become a serious problem and he said he would like to see the neighborhood enhancement program used to help deter this.

Mr. Hornung also provided a letter of support from Alfred Limbrick (D13-462).

Dennis Braden, 1811 Genther Lane – expressed his concern for the traffic that may come through the Westwood Subdivision and the hazards it would cause for the

children in the subdivision. He is also concerned that the traffic will back up substantially at the intersection of Keeneland and Cowan. He would like to see a non-intrusive business go there.

Audrey White, 301 Falling Creek Road, also expressed her concerns with the cut through traffic, as well as the litter from those passing through. She said this traffic lessens the value of their homes and she expressed her concerns that drivers fail to stop at the stop sign on Woodland Road.

Mark Poth, 1106 Westwood Drive, stated that he moved here from California in 2001. He had a long career as a research scientist with the Forest Service and he worked on air pollution effects on the forest as well as problems caused by forest fires. He also worked with several other groups so he said he was familiar with air quality. He noted all this because he says the amount of traffic in the area combined with the fast food restaurant would be a perfect recipe for an ozone hotspot, and he described it as living near a truck stop. He said he was concerned about this and he had not planned on living near a truck stop.

Hannah Fallon, 1813 Genther Lane, spoke in opposition of the restaurant in Cowan Crossing. She said there are 19 eating establishments within a 1.1 mile drive headed north and only two had drive-thru's. She could not understand why a special use would be granted for this restaurant. She was concerned that the children at the school would be exposed to the particulate matters which she said would be equivalent to smoking 38,500 to 58,250 cigarettes per day. She was worried that this would damage the livability of the neighborhood. She said they also passed a petition around and out of

the 58 occupied houses, 41 were against the restaurant. She submitted the petition for the record (D13-466).

Jodie Hayob, 111 Woodland Road, stated that she was concerned about the particulate matter and the air quality as well as the traffic. She was not opposed to the development, she just questioned why a fast food restaurant.

David Sokolow, 1827 Genther Lane, spoke against the proposed restaurant. He said this should be something that would benefit the citizens of Fredericksburg and he realize the tax benefit, but he did not feel it would benefit the residents in Westwood in any way. He asked the Council to represent the citizens and not approve this restaurant. He suggested some other type of restaurant such as an eat-in restaurant.

Christina Nye (D13-463), 1504 Keeneland Road, stated that she was in support of the special use permit and the development of Cowan Crossing. She stated that Silver Cos. Jervis Hairston and Chris Hornung had worked closely with them to determine the best way to preserve their quality of life as well as added improvements that would help maintain their property value.

Steven Hoover, 1506 Keeneland Road, suggested that Council add the maintenance logging as a condition on the resolution.

Mary Poth, 1106 Westwood Drive, stated that she was pro-smart growth. She had many concerns with the traffic cutting through the subdivision. There are many accidents at the corner of Keeneland and Cowan due to people trying to cross over Cowan to turn left. She suggested something being done to help alleviate the traffic. She said she understood the growth and the need for tax money.

Paul Fallon (D13-467), 1813 Genther Lane, spoke against the special use permit (SUP) stating that it does not have the right set of conditions to be granted. He suggests it violated several UDO ordinances, such as the drive-thru which he stated was within 100 feet of the residential zone. He listed several other items that he felt violated the UDO. He said there should be sidewalks included, but he did not see any on the Generalized Development Plan. He also presented Council with the UDO submittal requirements for a SUP and he placed an "X" by all the items he could not find in the file. Mr. Fallon stated that the UDO must harmonize with the Comprehensive Plan and he said he had 17 ways the Comprehensive Plan was violated with a SUP of a fast food restaurant. He said there had been a lack of balance between preservation and development. He said it was against the zoning district regulations because it should be a low intensity use and he asked City Council to strongly consider the legal ramifications for passing the SUP.

David Nye (D13-464thru D13-465), 1504 Keeneland Road, read a statement from his neighbor, Doug Cooper who was on vacation. Mr. Cooper's statement was in support of the special use permit request.

Mr. Nye also spoke in support of the special use permit request. He stated that the developer went to great lengths to work with him and his neighbors to mitigate impacts on their properties. He said a fast food restaurant was consistent with other businesses in the area and it would bring additional tax revenue to the City.

Councilor Howe stated that he was familiar with the issue of pollution which comes in many forms even noise, which he deals with. He noted that the City would have a deficit in the next couple years and something needed to be done to bring revenue

into the City or the citizens would feel it in their pockets. He asked the residents of Westwood to find a representative for them and contact the Assistant City Manager so they could have a representative for the neighborhood improvements committee that will be formed.

Vice-Mayor Ellis also stated that if the tax base isn't broadened then the taxes would have to be increased.

Adjournment. There being no speakers to come before the Council at this time, Mayor Greenlaw declared the hearing officially adjourned at 9:18 p.m.

Mary Katherine Greenlaw
Mary Katherine Greenlaw, Mayor

APPROVED

12-10-13

Tonya B. Lacey
Tonya B. Lacey, Clerk of Council, CMC



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HON. BEATRICE R. PAOLUCCI, WARD FOUR

November 26, 2013

The Council of the City of Fredericksburg, Virginia, held a regular session on Tuesday, November 26, 2013, beginning at 7:30 p.m. in the Council Chambers of City Hall.

City Council Present. Mayor Mary Katherine Greenlaw presiding. Vice-Mayor Bradford C. Ellis. Councilors Frederic N. Howe, III, Matthew J. Kelly, Beatrice R. Paolucci and George C. Solley.

City Council Absent. Councilor Kerry P. Devine, out of town.

Also Present. City Manager Beverly Cameron, City Attorney Kathleen Dooley, Planning Director Chuck Johnston, Deputy Director of Planning Erik Nelson, Public Works Director Doug Fawcett and Clerk of Council Tonya B. Lacey.

Opening Prayer and Pledge of Allegiance. Council was led in prayer by Councilor Frederic N. Howe, III, followed by the Pledge of Allegiance led by Mayor Greenlaw.

Officer Recognized. Mayor Greenlaw recognized the presence of Officer John Fesq at this evening's meeting.

Proclamation Recognizing G.M. Haney, Treasurer (D13-458).
Mayor Greenlaw presented G.M. Haney with a proclamation to publicly commend and

express her gratitude for the excellent public service he has provided to the Citizens of Fredericksburg.

City Manager Cameron stated that it was an honor to have worked with Mr. Haney for 27 of the 44 years he was with the City. Mr. Cameron presented him with a city watch. Mr. Haney said he enjoyed every moment of serving the City.

Citizen Comment. There were no speakers at this evening's meeting.

Public Hearings (D13-459 thru D13-467). The regular session was recessed in order to conduct the scheduled public hearing and immediately reconvened upon their conclusion.

Council Agenda Presented. The following items were presented to Council.

7A. Recommendation to the Commissioner Virginia Department of Transportation and the Commonwealth Transportation Board – Councilor Howe

7B. Appointment to the Building Codes Appeal Board – Michael Taggart

Recommendations to the Commissioner of Virginia Department of Transportation (VDOT) and Commonwealth Transportation Board (CTB). Councilor Howe stated that he would like to make recommendations to the Governor Elect for the Commissioner of VDOT and the CTB. He said he would like to recommend Charlie Kilpatrick for the Commissioner.

Councilor Kelly said he would not have a problem endorsing Mr. Kilpatrick, but he would also like to see a representative for the CTB that knows the area and knows how to find money for projects. He said the representative should be familiar with the

issues in the Fredericksburg area. Mr. Kelly also suggested possibly getting some support from surrounding counties and possibly presenting more than one person for the CTB.

Councilor Howe disagreed and felt only one person should be considered. He asked the City Attorney to draft a letter with the recommendations for Council to sign off on December 10.

Appointment to the Building Codes Appeal Board – Councilor Paolucci moved to appoint Michael Taggart to the Building Codes Appeal Board; motion was seconded by Councilor Kelly and passed by the following unanimously recorded votes. Ayes (6). Councilors Greenlaw, Ellis, Howe, Kelly, Paolucci and Solley. Nays (0).

City Manager's Consent Agenda Accepted for Transmittal as Recommended (D13-468 thru D13-471). Following review and as recommended, Councilor Kelly moved approval of the City Manager's consent agenda items; motion was seconded by Councilor Howe and passed by the following unanimously recorded votes. Ayes (6). Councilors Greenlaw, Ellis, Howe, Kelly, Paolucci and Solley. Nays (0).

- Transmittal of Boards and Commission Minutes
 - Clean and Green Commission – October 7, 2013 (D13-468).
 - Economic Development Authority – October 21, 2013 (D13-469).
 - Planning Commission – October 30, 2013 (D13-470).
 - Potomac and Rappahannock Transportation Commission – October 3, 2013 (D13-471).

Adoption of Minutes. Councilor Howe moved approval of the November 12,

2013 Public Hearing and Regular Session minutes; motion was seconded by Councilor Paolucci and passed by the following unanimously recorded votes. Ayes (6). Councilors Greenlaw, Ellis, Howe, Kelly, Paolucci and Solley. Nays (0).

Appointments to Architectural Review Board – John Harris, Kenneth McFarland, Jon Van Zandt and Sabina Weitzman (D13-472).

After the recorded votes taken, John Harris, Kenneth McFarland, Jon Van Zandt and Sabina Weitzman were appointed to the Architectural Review Board with a vote resulting between applicants. J. Gordon Brown, Carthon Davis, III, John Harris, Kenneth McFarland, Michael Sienkowski, Jon Van Zandt and Sabina Weitzman. Brown (2) Councilors Greenlaw, Solley. Davis (1) Solley. Harris (4) Councilors Ellis, Howe, Kelly, Paolucci, Solley. McFarland (6) Councilors Greenlaw, Ellis, Howe, Kelly, Paolucci, Solley. Sienkowski (0). Van Zandt (5) Greenlaw, Ellis, Howe, Kelly, Paolucci. Weitzman (6) Councilors Greenlaw, Ellis, Howe, Kelly, Paolucci, Solley.

Resolution 13-108, Approved, Authorizing the City Manager to Execute a Lease with Princess Anne Building, LLC for Public Parking in Downtown Fredericksburg (D3-473). Mayor Greenlaw recused herself due to a conflict of interest on the next three agenda items. Vice-Mayor Ellis presided over the meeting.

Councilor Howe commended staff for a great first step in utilizing existing spaces in the City to help support downtown businesses.

Upon a motion and as recommended Councilor Howe moved to approve Resolution 13-108 authorizing the City Manager to execute a lease with Princess Anne Building, LLC for public parking in downtown Fredericksburg; motion was seconded by

Councilor Paolucci.

Councilor Ellis recalled discussing provisions for Sunday churchgoer. Assistant City Manager Whitley stated it was addressed in the ordinance.

The motion passed by the following unanimously recorded votes. Ayes (5). Councilors Ellis, Howe, Kelly, Paolucci and Solley. Nays (0).

Resolution 13-109, Approved, Amending the Fiscal Year 2014 Budget in the Parking Fund for Shared Parking Expenses in Downtown Fredericksburg (D13-474). Councilor Kelly moved to approve Resolution 13-109, amending the fiscal year 2014 budget in the parking fund for shared parking expenses in downtown Fredericksburg; motion was seconded by Councilor Paolucci and passed by the following unanimously recorded votes. Ayes (5). Councilors Ellis, Howe, Kelly, Paolucci and Solley. Nays (0).

Ordinance 13-22, First Read, Establishing Parking Fees and Fines for the Public Parking Lot at 904 Princess Anne Street (D13-475 thru D13-476). Councilor Howe asked for an explanation on the unique metering that could be done through cell phone. City Manager Cameron explained that there was new technology where you could use your cell phone to extend your parking. He said it's called "extend by phone".

Councilor Paolucci questioned whether it would be appropriate to waive fees for the churchgoers and not for other groups. She felt there needed to be some type of blanket ruling. Vice-Mayor Ellis said it was his understanding from the closed session that the fees would be waived from 11-1. Mr. Cameron explained that he had not had

time to do additional research on how to go about waiving the fee therefore he used the proposed wording in the ordinance. This would allow him the time he needed to address this. Mr. Cameron stated that he understood it was Council's desire to provide complimentary parking to churchgoers on Sunday morning. Councilor Paolucci stated that she did not agree to doing that and asked City Attorney Dooley if she thought there would be any issue offering complimentary parking to the churchgoers and not to other groups. Ms. Dooley explained that she did not see an issue with it because it would be free parking to anyone during that time period and because of the wording in the ordinance the City Manager could waive the parking fee for other events if he felt the need.

Councilor Solley moved to approve Ordinance 13-22, on first read, establishing parking fees and fines for the public parking lot at 904 Princess Anne Street; motion was seconded by Councilor Kelly and passed by the following unanimously recorded votes. Ayes (5). Councilors Ellis, Howe, Kelly, Paolucci and Solley. Nays (0).

Mayor Greenlaw resumed presiding over the meeting

Requiring Zoning and Building Official Approval Before a Business License is Issued, by Amendment City Code Chapter 70, "Taxation," Article VIII "License Taxes," Division 1 "Generally" Amending Section 70-304.1 (D13-477). City Attorney Dooley explained that this item was formally located in §78-964 of the Zoning Ordinance and during the preparation of the UDO it was determined that Chapter 70 was a better location for this requirement. She suggested relocating this to the City's tax code section because it was more related to taxation and it would be more visible to new businesses.

Councilor Howe moved to table approving this ordinance until Council could have a work session to discuss this item more in-depth based on personal experience and complaints regarding BPOL licensing, tax application within the Commissioner of Revenue's Office.

Ms. Dooley explained that this was already part of the zoning ordinance, but the zoning ordinance was no longer in affect since the UDO was adopted and they felt that if this provision was placed in the tax chapter of the City Code that would be the better location for the provision.

Mayor Greenlaw explained that it has been her experience when a business moves into an old location that they must receive a certificate of occupancy. Councilor Howe stated that as a business owner there are more and more applications and more people are getting away from brick and mortar businesses and he would like to update Council and proposed particular situations where this is not applicable. He expressed a concern for giving the Commissioner of Revenue's office more deterrent functionality to an archaic tax on the BPOL. He stated that he would like to table it.

Vice-Mayor Ellis seconded the motion. He added the he thought there needed to be some discussion on this.

Councilor Kelly also agreed this would be a good time to review how the BPOL tax is being handled.

The motion passed by the following unanimously recorded votes. Ayes (6). Councilors Greenlaw, Ellis, Howe, Kelly, Paolucci and Solley. Nays (0).

Resolution 13-110, City Council Legislative Agenda for the 2014 General Assembly (D13-478). Councilor Kelly moved to approve Resolution 13-

110, approving the City Council Legislative Agenda for the 2014 general Assembly; motion was seconded by Councilor Howe.

Councilor Kelly stated that he would like the Council to start working on the legislative agenda process earlier and to get more engaged with the legislators. He also stated that he would like to have an update next year on the items presented this year.

The motion passed by the following unanimously recorded votes. Ayes (6). Councilors Greenlaw, Ellis, Howe, Kelly, Paolucci and Solley. Nays (0).

Mr. Whitley noted that he submitted an update for last year's agenda in the packets.

City Manager's Report and Council Calendar (D13-479 thru D13-481). City Manager Cameron asked if there were any questions regarding the Manager's report or the Council Calendar. Activities highlighted on the report were as follows: Emergency Dispatch Center Receives OEMS Accreditation, Executive Plaza, Energy Audit, Fire Station 1, Toys for Tots and Winter 2014 Parks and Recreation Catalog.

Mr. Cameron noted that the local composite index for the City would fall and that means a possible \$350,000 to \$400,000 additional funding per year from the State.

He also noted that on November 15 he received a PPEA from WC Spratt to design a variety of water and wastewater guidelines. He said he accepted the proposal and he is waiting to receive competing proposals which they are due January 14.

Mr. Fawcett provided a PowerPoint presentation updating Council on the VCR trail project. Councilor Howe had some concerns with the safety of the trails at the Blue and Gray Parkway intersection and Mr. Fawcett assured him that they were taking every

precaution they could. Councilor Howe also expressed his concerns with possible backup due to this crossing.

Councilor Paolucci asked about the possibility of a bridge and Mr. Fawcett explained that would not be possible due to the size it would have to be.

Adjournment. There being no further business to come before the Council at this time, Mayor Greenlaw declared the meeting officially adjourned at 10:18 p.m.

Mary Katherine Greenlaw
Mary Katherine Greenlaw, Mayor

APPROVED

12-10-13

Tonya B. Lacey
Tonya B. Lacey, Clerk of Council, CMC

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